

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

NOTICE OF DECISION CONDITIONAL USE CASE NO.21-052

APPLICATION: Application of Yi Liu and Hang Sun for a conditional use to establish a nursing home care facility on a 0.21 acre parcel located in the Single Family Residential (RS) zone at 4917 38th Place NE, Salem. (T7S, R2W, Section 6BC, Tax Lot 2600).

DECISION: The Zoning Administrator for Marion County has **APPROVED** the above-described Conditional Use application subject to certain conditions

EXPIRATION DATE: This conditional use permit is valid only when exercised by **November 23, 2023**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

WARNING: A decision approving the proposed use is for land use purposes only. Due to septic, well, and drain field replacement areas, this parcel may not be able to support the proposal. To ensure the subject property can accommodate the proposal the applicant should contact Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS: The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicant shall obtain approval for all permits required by the Marion County Building Inspection Division.
2. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.
3. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to a County hearings officer for a public hearing.

OTHER PERMITS, FEES AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying any restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding # 5 under Findings and Conclusions below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

4. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories that may be required.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Zoning Administrator. If there is any doubt that the application conforms with adopted land use policies and regulations the Zoning Administrator must condition or deny the application. Anyone who disagrees with the decision may request that the application be considered by a County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) on the basis of new information subject to signing an extension of the 120 day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received in the Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **November 23, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 24, 2021** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The property is designated Multi-Family in the Salem Area Comprehensive Plan and zoned Single-Family Residential by Marion County. The purpose of the Multi-Family designation is to provide for multiple-family dwellings on a lot, or attached dwellings on separate lots, at higher residential densities than those allowed under a Single-Family designation. The purpose of the Single-Family Residential zone is to provide areas for the development of attached or detached residences on individual lots provided with urban services at low urban densities.
2. The property is located on the west side of 38th Place NE, approximately 680 feet from the intersection of 38th Place NE with Blossom Dr. NE. The property contains a dwelling and was platted as part of the McLain Village No. 2 Subdivision and is therefore considered a legal parcel for land use purposes.
3. Properties to the north and south are zoned Single-Family Residential and developed with single-family dwellings. Properties to the west are in the City of Salem, are zoned General Industrial, and are used for RV and ministorage.
4. The applicant proposes to establish a nursing home care facility for adults, which is a conditional-use in the Single-Family Residential zone.
5. Marion County Building Inspection commented: “Permits are required for the conversion of the single family dwelling to care facility”

City of Salem Planning commented “upon annexation into the City of Salem, a nursing home care facility in an RS zone is only allowed when located on a lot with frontage on an arterial or collector street. All other nursing care facilities are not allowed in an RS zone. 38th Place is not an arterial or collector street, therefore, the use would not be allowed in the RS zone upon annexation. .

All other contacted agencies either failed to comment or stated no objection to the proposal.

6. All conditional uses are subject to the general criteria in MCC16.40.020, these include:
 - (a) *The use is listed as a conditional use in the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the zone and the provisions that authorized consideration as a conditional use.*

This use is listed as a conditional use in the RS zone per MCC 16.02.020 (F). The use is primarily residential in nature and no significant exterior alterations are being proposed to the single-family dwelling. Therefore, it is consistent with the intent and purpose of the zone. The criterion is met.

- (b) *The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.*

The parcel is generally flat and developed with a dwelling for residential use. The parcel is located within the Salem-Keizer Urban Growth Boundary and is proximate to many amenities, including more intensive healthcare facilities. There are no natural features that raise concerns. The criterion is met.

- (c) *The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of surrounding properties for the uses permitted in the applicable zone.*

The use will have a similar feel to that of a family living in the dwelling, and according to the applicant statement, will not limit or impair surrounding uses. Only two cars are proposed to be associated with this use. The criterion is met.

- (d) *The proposed use, as conditioned, will not have a significant adverse effect on air or water quality.*

The applicant is proposing to provide onsite nursing care to residents. There is no evidence that this use will have any adverse impact on air or water quality. The criterion is met.

- (e) *Adequate public and utility facilities and services to serve the use are available or will be made available prior to establishment of the use.*

The dwelling is located inside the Salem/Keizer Urban Growth Boundary. It has access to sewer services through the City of Salem, and has fire service through the City of Keizer. Marion County provides policing services and stormwater management services. Cherriots provides public transportation services. The property has access to private utilities for electric, natural gas, and internet services. The criterion is met.

7. Additionally, the proposal is subject to the specific criteria for Nursing Care Facilities in MCC 16.26.240:

Nursing care facilities shall meet the following use and development standards:

- A. *Yards. Front yards, 20-foot minimum or front yard required in applicable zone, whichever is greater. Side and rear yards, 20-foot minimum, or side and rear yard of applicable zone, whichever is greater.*

No new development is proposed and the dwelling appears to meet the current required setbacks in the RS zone.

- B. *Off-Street Parking. No off-street parking or loading area shall be permitted within five feet of the side and rear lot lines.*

The existing off street loading and parking is buffered by at least 5-feet from the property to the south.

- C. *Landscaping. All lot area not lawfully developed for building, structures, parking, loading or driveways, shall be landscaped as provided in Chapter 16.29 MCC.*

The undeveloped lot area is currently landscaped with grass, shrubs, and trees. The criterion is met.

- D. *Screening. Parking areas shall be screened from adjacent uses by a six-foot-high sight-obscuring fence, wall or hedge, except for the front yard.*

All required parking is in the front yard. The criterion is met.

8. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director

Date: November 8, 2021

If you have any questions regarding this decision contact Ryan Dyar at (503) 588-5038.

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.